

**AMENDMENT TO RULES COMMITTEE**  
**PRINT 118-10**  
**OFFERED BY MS. PORTER OF CALIFORNIA**

At the end of subtitle C of title XVIII, add the following:

1 **SEC. \_\_\_\_ . STUDY AND REPORT ON FEASIBILITY OF SUS-**  
2 **PENSION OF MERGERS, ACQUISITIONS, AND**  
3 **TAKEOVERS OF CERTAIN FOREIGN SURVEIL-**  
4 **LANCE COMPANIES.**

5 (a) IN GENERAL.—The Secretary of Commerce, in  
6 consultation with the Secretary of the Treasury, the Sec-  
7 retary of State, the Secretary of Defense, the Director of  
8 National Intelligence, and the heads of other relevant  
9 agencies, shall—

10 (1) study the feasibility of using existing au-  
11 thorities to implement a suspension of any merger,  
12 acquisition, or takeover that would result in control,  
13 including full or partial ownership of some or all as-  
14 sets, of a covered foreign entity described in sub-  
15 section (c) by a United States person; and

16 (2) submit to the appropriate congressional  
17 committees a report on the results of such study.

1 (b) MATTERS TO BE INCLUDED.—The study and re-  
2 port required by subsection (a) shall include the following:

3 (1) An assessment of whether the President or  
4 Executive branch agencies have the authority to im-  
5 plement a suspension as described in subsection (a)  
6 and what additional authorities would be required if  
7 needed.

8 (2) An assessment of whether the President or  
9 Executive branch agencies could lift a suspension  
10 only if a determination is made that the merger, ac-  
11 quisition, or takeover described in subsection (a)—

12 (A) does not pose a significant counter-  
13 intelligence or national security risk to the  
14 United States or United States treaty allies, in-  
15 cluding an undue risk of subversion of the  
16 United States intelligence community or United  
17 States national security interests through the  
18 design, integrity, manufacturing, production,  
19 distribution, installation, operation, or mainte-  
20 nance of targeted digital surveillance tech-  
21 nologies;

22 (B) does not seek or intend to evade or cir-  
23 cumvent United States export control laws, in-  
24 cluding through a transaction, transfer, agree-  
25 ment or arrangement intended or designed to

1           limit exposure to United States export controls;  
2           or

3           (C) does not affect any existing contracts  
4           between the United States Government and the  
5           United States person.

6           (c) COVERED FOREIGN ENTITY DESCRIBED.—A cov-  
7           ered foreign entity described in this subsection is an enti-  
8           ty, including a subsidiary or affiliate of the entity, that—

9           (1) is organized under the laws of or having its  
10          principal place of business in a foreign country;

11          (2) develops, sells, or otherwise controls propri-  
12          etary technology, including non-sensitive tech-  
13          nologies, related to targeted digital surveillance ca-  
14          pabilities; and

15          (3) is included on the list maintained by the  
16          Bureau of Industry and Security of the Department  
17          of Commerce and set forth in Supplement No. 4 to  
18          part 744 of title 15, Code of Federal Regulations.

19          (d) DEFINITIONS.—In this section:

20          (1) CONTROL.—The term “control” means the  
21          power, direct or indirect, whether exercised or not  
22          exercised, to determine, direct, or decide important  
23          matters affecting an entity, subject to regulations  
24          prescribed by the Secretary of Commerce.

1           (2) INTELLIGENCE COMMUNITY.—The term  
2           “intelligence community” has the meaning given  
3           that term in section 3(4) of the National Security  
4           Act of 1947 (50 U.S.C. 3003(4)).

5           (3) TARGETED DIGITAL SURVEILLANCE.—The  
6           term “targeted digital surveillance” means the use  
7           of items or services that enable an individual or enti-  
8           ty (with or without the knowing authorization of the  
9           product’s owner) to detect, monitor, intercept, col-  
10          lect, exploit, preserve, protect, transmit, retain, or  
11          otherwise gain access to the communications, sen-  
12          sitive or protected information, work product, brows-  
13          ing data, research, identifying information, location  
14          history, and online and offline activities of other in-  
15          dividuals, organizations, or entities.

16          (4) UNITED STATES PERSON.—The term  
17          “United States person” means—

18                 (A) a United States citizen or an alien law-  
19                 fully admitted for permanent residence to the  
20                 United States; or

21                 (B) an entity organized under the laws of  
22                 the United States or of any jurisdiction of the  
23                 United States, including a foreign branch of  
24                 such an entity.

